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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights on reports submitted by States parties in accordance with articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights

Note by the Secretary-General

1. At its seventh session (23 November-11 December 1992), the Committee on Economic, Social and Cultural Rights decided that, at the end of the consideration of each State party's report, it would adopt concluding observations.

2. Those observations provide a general evaluation by the Committee of a State party's report and of its dialogue with the delegation. They note positive developments that may have occurred during the period under review, factors and difficulties affecting the implementation of the Covenant, and specific issues of concern relating to the application of the provisions of the Covenant. They also include suggestions and recommendations to the State party concerned and serve as a starting point for the preparation of its subsequent periodic reports.

3. As from the fourteenth session (30 April-17 May 1996), the concluding observations of the Committee on Economic, Social and Cultural Rights on reports submitted by States parties in accordance with articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights are being issued as addenda to the present document. For the list of the concluding observations adopted by the Committee at its eighth to thirteenth sessions (1993-1995), see the annex to this document.

GE.96-17539 (E)

ANNEX

Concluding observations adopted by the Committee on Economic, Social and Cultural Rights at its eighth to thirteenth sessions (1993-1995)

Eighth session, 10-28 May 1993

1.	Canada	E/C.12/1993/5
2.	Kenya	E/C.12/1993/6
3.	Iran (Islamic Republic of)	E/C.12/1993/7
4.	Viet Nam	E/C.12/1993/8
5.	Australia	E/C.12/1993/9
6.	Lebanon	E/C.12/1993/10

Ninth session, 22 November-10 December 1993

1.	New Zealand	E/C.12/1993/13
2.	Nicaragua	E/C.12/1993/14
3.	Iceland	E/C.12/1993/15
4.	Mexico	E/C.12/1993/16
5.	Germany	E/C.12/1993/17
6.	Senegal	E/C.12/1993/18

Tenth session, 2-20 May 1994

1.	Uruguay	E/C.12/1994/3
2.	Romania	E/C.12/1994/4
3.	Morocco	E/C.12/1994/5
4.	Iraq	E/C.12/1994/6
5.	Belgium	E/C.12/1994/7
6.	Mauritius	E/C.12/1994/8
7.	The Gambia	E/C.12/1994/9

Eleventh session, 21 November-9 December 1994

1.	Argentina	E/C.12/1994/14
2.	Dominican Republic	E/C.12/1994/15
3.	Austria	E/C.12/1994/16
4.	Mali	E/C.12/1994/17
5.	Suriname	E/C.12/1994/18
6.	United Kingdom of Great Britain and Northern Ireland	E/C.12/1994/19

Twelfth session, 1-19 May 1995

1.	Republic of Korea	E/C.12/1995/3
2.	Portugal	E/C.12/1995/4
3.	Philippines	E/C.12/1995/7
4.	Sweden	E/C.12/1995/5
5.	Suriname	E/C.12/1995/6

Thirteenth session, 20 November-8 December 1995

1.	Colombia	E/C.12/1995/12
2.	Norway	E/C.12/1995/13
3.	Mauritius	E/C.12/1995/14
4.	Ukraine	E/C.12/1995/15
5.	Algeria	E/C.12/1995/17

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic,
Social and Cultural Rights

PARAGUAY

1. The Committee considered the initial report of Paraguay (E/1990/5/Add.23) at its 1st, 2nd and 4th meetings, held on 30 April and 1 May 1996, and adopted, at its 22nd meeting, held on 14 May 1996, the following concluding observations.

A. Introduction

2. The Committee expresses its satisfaction to the State party for its detailed and frank initial report and for the substantial additional information supplied by the delegation verbally, as well as the constructive dialogue maintained between the delegation and Committee members. However, it regrets the lack of clear statistics and the State party's failure to provide written replies in due time to the list of issues submitted to it and the delegation's inability to provide satisfactory answers on many of those issues. The Committee notes that replies to some of the questions raised during the dialogue established with the State party were received subsequently.

B. Positive aspects

3. The Committee notes with great satisfaction that the State party is undergoing a process of peaceful democratization, which has begun to have a notable impact on the enjoyment of human rights. The ratification of the two Covenants in 1992 and the adoption of the new Constitution guaranteeing many of the rights embodied in the Covenant in 1992 and of the new Labour Code in 1993 are highly appreciated developments. The Committee also welcomes the clearly defined place of the Covenant (and of the other international human rights instruments) in the country's internal legal order. The repeal of Acts Nos. 294/55 and 209/70 is noted with satisfaction.

4. The creation of a Directorate-General of Human Rights within the Ministry of Justice and Labour and the State party's initiation of a programme of technical cooperation with the Centre for Human Rights of the United Nations are seen by the Committee as encouraging developments.

5. The Committee notes with satisfaction the creation of a Secretariat for Women to coordinate activities undertaken by the Government in relation to the mandate contained in the Constitution, which proclaims the principle of equal rights for men and women.

6. The Committee also notes the progress made by the State party in the field of education. The constitutional provision whereby 20 per cent of the State budget must be allocated to education is noted with great interest.

C. Factors and difficulties impeding the implementation of the Covenant

7. The Committee is well aware that democracy in Paraguay must be consolidated and that it will take many more years to eradicate completely the attitudes created by decades of dictatorship, glaring social inequalities and latifundismo. The economic difficulties encountered by the State party, the high degree of poverty throughout the country and the constraints imposed by foreign debt repayment are further obstacles to the full realisation of the economic, social and cultural rights embodied in the Covenant. The Committee also recognizes that the persistence in Paraguayan society of attitudes engendered by a culture in which men are treated as superior to women does not facilitate the full implementation of article 3 of the Covenant.

D. Principal subjects of concern

8. Of particular concern to the Committee is the persistence of clear disparities in the exercise of economic, social and cultural rights in Paraguayan society, where a high percentage of the population is still living in conditions of poverty. The Committee therefore notes with concern the slow pace at which the Government, through the Institute for Social Welfare, is proceeding with the land reform provided for in the Constitution, since that slow pace is a continuing cause of labour and social conflict and is hampering the exercise by the agricultural sector of the rights recognized in the Covenant.

9. The Committee is very concerned at the plight of the indigenous population, as well as the estimated 200,000 landless mestizo peasant

families. The main reason for hunger and malnutrition of the indigenous population and the deprivation of their rights is linked to the severe problem of obtaining access to traditional and ancestral lands. Though recognized by Law 904/81 and other subsequent laws, this right remains in abeyance. Eighty documented claims for legalizing indigenous access to traditional land have been pending for a number of years. All indigenous groups in the Chaco were expelled from their traditional land by cattle ranchers or industrial enterprises. The Committee is also concerned by the situation of landless peasant families, of whom 50,000, on 15 March 1996, marched on the capital, Asunción, demanding adoption of legislative measures with respect to the land occupied by them and denouncing the Government's failure to fulfil past promises of agrarian reform. In Paraguay today, 5 per cent of the population owns between 60 and 80 per cent of the national territory, a situation fraught with danger for Paraguayan peace and stability.

10. The Committee expresses its concern at the many forms of discrimination against women. Discrimination in employment is a serious problem, particularly in the form of unequal pay for equal work. The Committee also regrets that no information has been received from the State party regarding the actual status of women in Paraguay, in particular on violence against women.

11. Regarding the implementation of article 7 of the Covenant, the Committee is most concerned that, despite the existence of legislation governing the minimum wage, many workers - perhaps even as many as 50 per cent - do not earn that wage.

12. While recognizing that the right to form and join trade unions is established by law, the Committee is concerned by the excessive number of cases of discriminatory practices by employers against unionized workers, including wrongful dismissal for trade union activities. While aware of the impact of decades of dictatorship on the culture of entrepreneurs, the Committee is compelled to point out that the free exercise of trade-union rights is one of the fundamental rights of workers, as elaborated in article 8 of the Covenant.

13. The Committee expresses its concern about the restrictive nature of the legislation governing the right to strike.

14. With regard to the implementation of article 9 of the Covenant, the Committee expresses its concern that large sectors of the population are excluded from any social protection because the informal sector accounts for a large share of the economy.

15. The Committee is particularly concerned about the large number of child workers and street children in Paraguay. It draws attention to the inadequacy of the measures taken by the Government to combat these phenomena, which are serious violations of the fundamental rights of the child.

16. The Committee expresses its concern about the inequitable distribution of health services between urban and rural areas. It also notes the very small number of medical and paramedical personnel in the country. The high rate of

infant mortality and infant morbidity are also matters of concern for the Committee, as are the high maternal mortality rate and the inadequacy of guidance and family planning services.

17. With regard to the implementation of articles 13 and 14 of the Covenant, the Committee recognizes the sustained efforts made by the Government of Paraguay, but is very concerned about the disparities between the school system in urban and rural areas and the high drop-out rate. The Committee also expresses concern about the inadequate training and pay of teachers at all educational levels. The decline in the quality of education, the irrelevance of educational methods and the overly centralized and bureaucratic management of the educational sector, as diagnosed by UNICEF, are noted with concern by the Committee.

18. The Committee regrets the apparent failure to disseminate the Covenant in the various sectors of society, particularly in the Guaraní language. The Committee notes that little has been done to inform the general population and, in particular, the indigenous population, of its fundamental rights.

E. Suggestions and recommendations

19. The Committee recommends that the office of the Ombudsman, as provided for in the chapter IV of the 1992 Constitution, should be established without delay.

20. The Committee urges the Government of Paraguay to continue the economic development, agrarian reform and fiscal reform programmes now under way in order to deal with the serious problem of the unfair distribution of wealth, as a means of combating poverty.

21. The Committee urges the State party to take energetic measures to eliminate the forms of discrimination to which the indigenous peoples are subjected in the enjoyment of their economic, social and cultural rights. It is essential that particular attention should be paid to the land problems which affect them and that genuine political will should be displayed to solve these problems in a human rights context. The Committee also recommends that a detailed study should be carried out, under government auspices, on the socio-economic situation of indigenous women.

22. The Committee recommends that the Government of Paraguay pursue policies designed to achieve genuine equality of rights between men and women, and eliminate the discriminatory provisions that are still contained in civil, criminal, trade and labour laws, as well as in family law.

23. The Committee recommends that appropriate legal measures should be undertaken in relation to crimes of violence against women and children within or outside the family.

24. The Committee recommends that the Government of Paraguay adopt an affirmative action policy to improve the social status of women, inter alia at the workplace. The Committee encourages the State party to take all necessary measures for the full implementation of legislation on equal pay and equality of opportunity.

25. The Committee recommends that urgent measures should be adopted, inter alia by increasing the awareness of employers, labour judges and the police, in order fully to guarantee the implementation of the right to engage in trade union activities and the right to strike.

26. The Committee recommends that the necessary legislative and other measures should be adopted to prevent and remedy situations of distress caused by the abandonment of families by fathers, making them responsible for assisting and supporting their families.

27. The Committee recommends that the State party should launch a programme, in cooperation with UNICEF and ILO, to combat the exploitation of child labour and the abandonment and exploitation of street children.

28. The Committee encourages the State party to take measures to improve the system of health care which should take into account the needs of all segments of society and reduce the disparities from which the system now suffers.

29. The Committee recommends that the Government of Paraguay should energetically pursue its efforts and increase its investment in education, particularly primary education. Greater attention should be paid to this sector in the technical cooperation programmes in which the country is involved. The Committee urges the Government of Paraguay to expand the campaign undertaken by the Human Rights Office of the Ministry of Justice and Labour in relation to human rights education at the primary, secondary and university levels and extend its scope to include elected officials, the military, professors and the judiciary.

30. The State party is encouraged to ratify the Additional Protocol to the Inter-American Convention on Human Rights in the Area of Economic, Social and Cultural Rights.

31. The Committee considers that systems for collecting statistics should be improved on the basis of more appropriate indicators, with a view to the objective evaluation of problems and the progress made in the implementation of the provisions of the Covenant.

32. The Committee requests the State party to provide it with written replies to the unanswered questions from the list of issues submitted to it prior to the consideration of the report (questions 2, 6, 10, 12, 19, 20, 30 and 32), as well as all those relating to the rights contained in articles 13 to 15 of the Covenant, covered by questions 34 to 42, and asks that such information should be sent to the Centre for Human Rights by 31 October 1996. The Committee would also like the next report of the Government of Paraguay to fill in the information gaps identified during the consideration of the present report by the Committee. The report should contain detailed information on the full implementation of legislative and administrative measures relating to prevention and enforcement in respect of safe and healthy working conditions. The Committee would also like information to be transmitted on cases in which the Covenant has been invoked in the courts.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on
Economic, Social and Cultural Rights

SPAIN

1. At its 3rd, 5th, 6th and 7th meetings, held on 1, 2 and 3 May 1996, the Committee considered the third periodic report of Spain concerning the rights covered by articles 1 to 15 of the Covenant (E/1994/104/Add.5), as well as the written replies to the additional questions drawn up by the pre-sessional working group, and adopted, at its 22nd meeting, held on 14 May 1996, the following concluding observations.

A. Introduction

2. The Committee expresses its satisfaction at the detailed report submitted by the State party and the substantial additional information supplied in writing, as well as the excellent dialogue established between its members and the large delegation of experts, including women, representing the ministries concerned.

3. However, the Committee regrets that the Government did not cover articles 7, 8, 9 and 12 of the Covenant in its report. Nevertheless, the Committee is satisfied with the oral information concerning those articles provided during the dialogue, which demonstrates the Government's firm resolve to implement all the provisions of the Covenant.

B. Positive aspects

4. The Committee congratulates Spain on the many steps, in constitutional law and otherwise, it has taken to promote the realization of the economic,

social and cultural rights set forth in the Covenant. It notes with satisfaction the particular efforts the Government has made to address unemployment in various forms, the positive action taken to enable adults to pursue academic studies, even through distance learning, the improvement of the status of motherhood and fatherhood and the special attention paid to protecting the rights of elderly persons.

C. Factors and difficulties impeding the implementation of the Covenant

5. The Committee notes the difficulties currently being experienced by Spain as a result of structural changes and the economic recession. The decentralization and privatization of some social services, persistent large-scale unemployment and budget cuts affect the whole population, and especially the most vulnerable groups.

D. Principal subjects of concern

6. The Committee notes with concern that despite the new legislative provisions in force, discrimination continues against women with regard to the right to equal treatment at work, the right to equal pay and access to education.

7. The Committee also notes with concern that as a result of the economic recession, budget cuts have been made in the social welfare sector and have had a particular impact on the most vulnerable groups in society. In this regard, the Committee emphasizes the importance of the views expressed in its General Comment No. 3 that even in times of severe resource constraints, whether caused by a process of adjustment, of economic recession, or by other factors, the vulnerable members of society can, and indeed must, be protected by the adoption of relatively low-cost targeted programmes.

8. The Committee further notes with concern that the unemployment rate in Spain is extremely high, and particularly so for women and young people.

9. The Committee notes the persistence of a worrying rate of illiteracy, especially among women and in certain southern regions.

10. The Committee notes with great concern the growth in the number of acts of discrimination and racism against foreigners in Spain, particularly directed at groups from North Africa, asylum seekers, illegal workers and the Romany (Gypsy) population.

11. The Committee notes that the central Government does not systematically collect disaggregated national statistics concerning the rights covered by the Covenant, and that consequently it does not always possess adequate data to enable it to evaluate the application of the Covenant fully and appropriately.

12. The Committee notes that the public as a whole and the media are still largely ignorant of the Covenant's provisions, with the result that the vast majority of the population is unaware of the commitments entered into by the Spanish authorities with regard to economic, social and cultural rights.

E. Suggestions and recommendations

13. The Committee recommends that the Spanish authorities continue their efforts to ensure effective equality between men and women, in particular with regard to access to education and jobs and equal pay for equal work.

14. The Committee recommends that the State party take special steps to protect the most vulnerable groups in society as effectively as possible against the impact of the budget cuts currently affecting the social sector.

15. The Committee encourages the Government of Spain to continue to devise and apply all possible measures to curb the present rate of unemployment. In that context, it suggests that the State party should retain the integration of women and young people in the labour market as a priority policy.

16. The Committee encourages the Spanish authorities to take all necessary steps to reduce the level of illiteracy, which particularly affects women and certain population groups living in particular parts of the country.

17. The Committee urges the Government to take all appropriate preventive and penal measures to combat effectively all forms of racial discrimination which particularly affects groups from North Africa, asylum seekers, illegal workers and the Romany (Gypsy) population.

18. The Committee recommends that the State party should take the necessary steps systematically to collect and analyse disaggregated national statistics relating to the provisions of the Covenant, in order to have an effective tool for monitoring the realization of those rights.

19. The Committee recommends that the State party's report and the concluding observations should be extensively publicized within the country, especially through the media, the universities and interested non-governmental organizations.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

GUATEMALA

1. The Committee considered the initial report of Guatemala on articles 1 to 15 of the Covenant (E/1990/5/Add.24) at its 11th to 14th meetings, held on 7 and 8 May 1996, and adopted, at its 26th meeting, held on 17 May 1996, the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation to the State party for the submission of a comprehensive core document and written replies to its list of questions, and for the introductory statement which offered an overview of recent developments and plans in relation to the promotion and protection of the rights provided for in the Covenant.

3. The Committee welcomes the willingness of the high-level delegation to engage in an open and constructive dialogue with the Committee. In this regard, the Committee appreciates the delegation's frank admission that numerous difficulties continue to be encountered and problems remain to be overcome in order to ensure the effective enjoyment of the rights provided for in the Covenant. The readiness of the State party to distribute to the

members of the Committee copies of the Human Rights Procurator's report, which contains material critical of the present situation with regard to the implementation of human rights in the country, is indicative of the openness of the Government in acknowledging and pointing out the present weaknesses and failures of the system for the implementation of human rights standards in Guatemala.

B. Positive aspects

4. The Committee is encouraged by the Government's commitment to the continuity of the process of negotiating a comprehensive peace agreement, as illustrated by the signing in Mexico City on 6 May 1996 of the "Acuerdo Sobre Aspectos Socioeconomicos y Situacion Agraria" which forms part of, and will come into effect with the signing of, the "Acuerdo de Paz Firme Y Duradera".

5. The Committee welcomes the signing on 29 March 1994 of the Comprehensive Agreement on Human Rights and the establishment of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreements on Human Rights in Guatemala (MINUGUA). Further positive developments are the conclusion of the Agreement on Resettlement of the Population Groups uprooted by the Armed Conflict of 23 June 1994, and the Agreement on the Identity and Rights of Indigenous Peoples of 31 March 1995 signed between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (UNRG). The Government's recent adherence to ILO Convention No. 169 of 1989 concerning Indigenous and Tribal Peoples is also noted with interest.

6. The Committee notes the establishment of the Presidential Commission for Coordinating Executive Policy in the Field of Human Rights and the Office of the Human Rights Procurator. It is noted that the latter Office has a unit for the promotion and protection of the rights of persons with disabilities and the elderly and that a bill concerning the care of persons with disabilities is currently being considered.

7. Satisfaction is expressed by the Committee at the ending of the illegal practice of forced enlistment into military service.

8. The Committee takes note of the measures introduced to promote equality between men and women through reform of the Labour Code by Congressional Decree 64-92 of November 1992 and the Constitutional Court's declaration that articles 232 to 235 of the Penal Code are null and void on the grounds that they conflicted with article 4 of the Constitution which states that all human beings are free and equal in dignity, responsibilities and rights.

9. The Committee further notes that the Guatemalan Housing Fund (FOGUAVI) was set up in February 1995 for the principal purpose of providing funding for projects designed to solve the housing problems of Guatemalan families living in poverty or extreme poverty.

C. Factors and difficulties impeding the implementation of the Covenant

10. The Committee recognizes that Guatemala continues to suffer from the consequences of armed conflict which has lasted over 30 years. Overcoming the

resistance to reform from vested interests which have, in the past, caused the failure of agrarian reform, and which continue to be relevant today, is of major importance. Thus, as recognized by the State party, the root causes of the armed conflict remain to be tackled, embedded as they are in socio-economic disparities and uneven land distribution in an almost feudal like system characterized by discrimination against the indigenous and rural populations.

11. The Committee agrees with the observations made by the Government that the situation of armed conflict has resulted in serious human rights violations. The continuing existence of paramilitary groups in the guise of so-called "civilian self-defence committees", which are responsible for many thousands of extrajudicial executions, remains a serious obstacle to peace. The continuing difficulties encountered in combating the problem of impunity and the uneven distribution of economic resources has led to a loss of confidence on the part of the civilian population which needs to be addressed in order to secure economic, social and cultural rights, and a return to the rule of law in the country.

12. The Committee is of the opinion that traditional values and practices assigning an inferior role to women in society and within the family are serious factors impeding the full realization by women of their economic, social and cultural rights as provided for in the Covenant.

D. Principal subjects of concern

13. While the Committee welcomes the Government's intention to reform domestic legislation to bring it into greater conformity with the provisions of international human rights instruments, among them the International Covenant on Economic, Social and Cultural Rights, it remains concerned about the significant gap existing between the rights provided for in legislation and their implementation in practice. It notes with concern the fact that provisions of the Civil Code of Guatemala, especially its articles 109, 114 and 131, discriminate against women.

14. The Committee is extremely concerned at adverse effects that the economic and social disparities existing in the country have on the enjoyment of economic, social and cultural rights by the majority of the population, particularly by the indigenous and rural populations of Guatemala, as well as by other vulnerable groups of society, especially children, persons with disabilities and elderly persons.

15. Far-reaching racial discrimination, extreme poverty and social exclusion in relation to the indigenous populations negatively affect the enjoyment of economic, social and cultural rights by these populations, and are matters of deep concern for the Committee.

16. The Committee wishes to voice its serious concern about the continuing problem of violence against women and the insufficient attention paid to the problem by governmental institutions which has led to the invisibility of the problem of domestic violence against women.

17. While the Committee appreciates the open admission of the Government that land was illegally appropriated by force in the past and that plans are in place to address this problem, the Committee remains convinced that the issue of land ownership and distribution of land is crucial to addressing economic, social and cultural grievances of a substantial segment of the population.

18. The Committee is deeply disturbed at the apparent flagrant disregard of labour laws, the alarming reports of employer impunity, the lack of respect for minimum wages, for conditions of work and unionization, particularly as they affect individuals employed in a large number of the farming sectors. The ineffectiveness of labour laws in protecting trade unions rights when coupled with the problems of high levels of unemployment and underemployment give cause for deep concern. Thus, despite the Government's stated policy of undertaking further commitments to strengthen the labour inspectorate and introduce changes in the monitoring and enforcement of labour standards, including through the proposals on economic policy and labour legislation contained in recently signed agreements, the possibilities for ensuring effective implementation of the new proposals continue to give grounds for concern to the Committee. One aspect which is of serious concern to the Committee is the situation of those persons working in the "maquillas" (expert sector industries), many of whom are women.

19. The Committee remains unclear at to the adequacy of social protection provided to those employed in the informal sector.

20. The general situation faced by internally and externally displaced persons remains a serious cause of concern for the Committee.

21. The Committee expresses its concern about the issue of low access to safe water for the rural population, the higher incidence of infant mortality within certain socio-economic groups, the situation of persons with disabilities, the prevalence of endemic diseases, the problem of the inadequacy of social welfare and security, the persisting housing shortage and the inadequacy of access to health care. The Committee is of the view that this general situation, affecting the most vulnerable in Guatemalan society, deprives them of their full enjoyment of the economic, social and cultural rights provided for in the Covenant.

22. Particular concern is expressed by the Committee at the persisting problems of illiteracy and lack of access to education as they affect the poorest sectors of the population. Notice is also taken by the Committee of the inadequacy of human rights education provided for the entire population.

E. Suggestions and recommendations

23. The Committee acknowledges the good will of the Government and its open admission of the need for reform in all areas of social, economic and cultural life. The Committee stresses that the implementation of the Covenant's provisions can not be ensured without reform and adequate implementation of the peace accord, which require above all the just distribution of wealth and of land.

24. Thus the Committee is of the opinion that the issue of land ownership and redistribution should be closely monitored, both in the light of the implementation of article 14 of the Political Constitution of the Republic of Guatemala, which provides for the expropriation of fallow land on private estates, and the implementation of the "Acuerdo Sobre Aspectos Socioeconomicos y Situacion Agraria". The establishment of national benchmarks is essential to ensure a systematic review of the progress made towards their implementation and should be viewed as an essential element for ensuring international cooperation and domestic change. The Committee recommends therefore that international cooperation must be devoted to the goal of implementation of economic, social and cultural rights.

25. The Committee notes the intention of the Government to reform its fiscal and monetary policy as a means of promoting social and economic development. The Government's plans to divert resources to social welfare measures, particularly in the fields of health and education, are welcomed. The Committee recommends that the international community support the measures taken in this regard and ensure the regular and close monitoring and reviewing of projects undertaken pursuant to various agreements entered into with a view to securing a lasting peace.

26. The Committee emphasizes the importance of the role being undertaken by MINUGUA in monitoring the peace process and the progress of efforts to improve respect for human rights, which should include economic, social and cultural rights.

27. The Committee recommends that all legislative and other reforms should take into account the need to promote equality and reverse the devastating effects of discrimination against the indigenous populations, in particular through affirmative action.

28. It is the Committee's view that the problem of discrimination against women has been neglected and that this lacuna should be addressed, especially in view of the present efforts to effect changes in attitudes and policy for sustainable peace and development in the country. The Committee notes with approval the proposed consideration of reform of family law in the Civil Code, namely its articles 109, 131 and 114, which discriminate against women.

29. It is urgently recommended that the effective implementation of trade-union rights and the labour laws be addressed. The protection of such rights requires that particular attention be accorded to the enforcement of labour laws, consistent with the provisions of the Covenant, especially in view of the considerable needs of the indigenous and other disadvantaged groups of society to enjoy economic opportunities and social mobility.

30. While taking note of the various measures taken to reintegrate returning refugees and internally displaced persons, the Committee wishes to highlight the need for continued international cooperation in this field too. Moreover, the careful scrutiny and involvement of the international community in all these efforts will be all the more indispensable in the event of the peace agreement being signed and of the consequent necessity for the reintegration of the demobilized army and guerilla forces into society and the economy.

31. The Committee recommends that further measures be taken to prevent and combat the phenomenon of child labour, including through full respect for the international standards relating to the minimum age of employment of children.

32. The Committee acknowledges the value of the shift in health and education policy towards promoting access to health care and services and to education for the most disadvantaged groups of society and strongly recommends that this focus be maintained. It reiterates its strong conviction of the need to devote sufficient resources to the implementation of articles 9 to 14 of the Covenant. In this context, attention is also drawn to the urgent need to undertake further measures to tackle the problem of illiteracy.

33. The Committee concurs with the observations made by the delegation that a major task facing the country and its Government is to further develop, strengthen and secure the participation of the population in establishing and preserving lasting peace in the country through implementation of decisions agreed upon in peace agreements regarding the full respect of human rights and fundamental freedoms. It is the Committee's opinion that a human rights culture must be created, including addressing the problem of culturally ingrained discrimination, which is pervasive in Guatemala.

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Concluding observations of the Committee on Economic,
Social and Cultural Rights

EL SALVADOR

1. The Committee considered the initial report of El Salvador (E/1990/5/Add.25) at its 15th, 16th and 18th meetings, held on 9 and 10 May 1996, and adopted, at its 26th meeting, held on 17 May 1996, the following concluding observations.

A. Introduction

2. The Committee thanks the State party for its initial report, despite the considerable delay in its submission. The Committee also thanks the State party for its written replies to the list of issues, but regrets that they were not submitted in time to be translated and considered more carefully by members of the Committee. The Committee also regrets that information relating to article 15 of the Covenant was missing from the report, as well as from the written replies to the list of issues, in spite of specific requests for such information. The Committee notes with satisfaction that the report of El Salvador was drafted in consultation with national non-governmental organizations.

3. The Committee points out that the lack of concrete information, both in the written report and in the written and oral replies provided by the delegation, prevented the Committee from making an effective evaluation of the actual situation as regards the exercise of economic, social and cultural rights by the Salvadoran population. The Committee notes in particular the

delegation's failure to provide specific statistics on the composition of the population and on the various economic, social and cultural indicators. However, the Committee has taken note of the delegation's undertaking that additional information will be provided in response to the various points raised by the Committee.

B. Positive aspects

4. The Committee notes with satisfaction that, within the internal legal order, international human rights instruments take precedence over national laws, and that the 1983 Constitution contains human rights provisions. The Committee also notes that amparo proceedings may be instituted for the protection of economic, social and cultural rights, although the delegation failed to clarify whether the provisions of the Covenant can be invoked directly before the courts.

5. The Committee welcomes the ratification of 14 ILO Conventions in 1994, including: Medical Examination of Young Persons (Industry) (Convention No. 77), Labour Inspection (Convention No. 81), Minimum Wage Fixing Machinery (Agriculture) (Convention No. 99), Discrimination (Employment and Occupation) (Convention No. 111), Labour Inspection (Agriculture) (Convention No. 129), Minimum Wage Fixing (Convention No. 131), Human Resources Development (Convention No. 142) and Tripartite Consultations (International Labour Standards) (Convention No. 144).

6. The Committee notes with satisfaction the creation in 1991 of the post of Procurator for the Defence of Human Rights, whose important functions, including the competence to conduct inspections and investigations, [illegible] corrective or [illegible] recommendations, are provided for in article 134 of the Constitution. The Committee also welcomes the creation of local units of the Office of the Procurator for the Defence of Human Rights to ensure wider [illegible] and greater protection for human rights, including economic, social and cultural rights.

7. The Committee welcomes the adoption of an economic and social development plan for 1994-1999, the main aims of which are to reduce poverty, improve the quality of life of the population and increase the access of landless peasants to the land. The Committee also notes that the portion of the national budget allocated to social expenditures has increased. The establishment of a Social Investment Fund to channel resources from donors to projects designed mainly to help low-income groups and the implementation of the Social Rehabilitation Plan for 78 communes are welcomed by the Committee.

8. The Committee welcomes the measures taken by the Government to reform the education system and improve access to education. The EDUCO programme introduced to promote the education of rural children and adults, literacy programmes and the comprehensive child care programme are all positive steps towards the realization for all of the right to education.

9. The Committee also welcomes the creation in 1989 of the National Secretariat for the Family, the adoption of a new Family Code, the Government's ratification of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women in August 1995, and the

establishment of the Salvador Institute for the Development of Women and the Salvador Institute for the Protection of Minors. The Committee welcomes the introduction of a telephone hotline to provide psychological help to victims of violence and to inform them about the social and medical help and legal assistance available to them.

C. Factors and difficulties impeding the implementation of the Covenant

10. The Committee recognizes that the high cost of rebuilding numerous elements of infrastructure that were destroyed during the 12 years of civil war and of the implementation of the two Peace Agreements, in conjunction with the region's difficult economic circumstances, hamper the full realization of economic, social and cultural rights.

11. The full implementation of economic, social and cultural rights is further hampered by the high cost of the reintegration of returning refugees and displaced persons.

D. Principal subjects of concern

12. The Committee is deeply concerned at the high level of poverty which is affecting most of the country's inhabitants. The food and nutritional situation is a major problem, reflected among other things in a high level of infant mortality, since a very high proportion of children are suffering from malnutrition. Although the Committee recognizes that considerable efforts have been made by the authorities to improve the situation, it wishes to emphasize that the continued existence of such a level of poverty in a country experiencing constant economic growth is unjustifiable.

13. The Committee is concerned at the sluggishness with which certain clauses of the 1992 Peace Agreement are being implemented, including those concerning respect for the economic, social and cultural rights of the population, and more particularly the programme of land redistribution.

14. The Committee also notes that the scope of the authority of the Office of the Procurator for the Defence of Human Rights is unclear, particularly as regards follow-up by the administrative or judicial authorities to complaints filed by his Office concerning violations of economic, social and cultural rights brought to his attention by individuals.

15. The Committee notes with concern that discrimination against women, both at work and in the home, remains a major problem within Salvadoran society, and while noting that efforts have been made to change the legislation, it emphasizes that the law still contains discriminatory provisions, particularly in the Civil and Penal Codes.

16. The Committee regrets the total lack of specific information provided on articles 6 to 8 of the Covenant, both in the written report and in the debate. The Committee expresses its concern over the adverse consequences for economic, social and cultural rights of the way in which economic adjustment, austerity and privatization programmes have been implemented, especially in the short term. The Committee notes that working conditions in the duty-free zones have deteriorated and that difficulties have resulted from the

inadequacy of resources available to enable the factory inspectorates to enforce legislation on the minimum wage, equal remuneration for men and women, industrial safety and hygiene and wrongful dismissal.

17. The Committee regrets that article 291 of the Penal Code still remains in force, despite the fact that is has been deemed contrary to Convention No. 105 of the International Labour Organization by its Committee of Experts.

18. Although the Committee takes note of the increase in the minimum wage, it is concerned that the minimum wage remains below the cost of subsistence, as acknowledged by the delegation of El Salvador; the minimum wage amounts to 1,050 colones in urban areas and 900 colones in rural areas, while the meeting of basic subsistence costs amounts to 4,500 colones.

19. The Committee considers that the legal restrictions on trade-union freedom and the right to strike are far too extensive. In the view of the Committee, the prohibition on aliens occupying positions of responsibility within a trade union is contrary to the Covenant. The Committee is concerned at the numerous reports it has received of violations with virtually total impunity in enterprises located in duty-free zones of the rights contained in articles 7 and 8 of the Covenant.

20. The Committee expresses its concern at the extent of the problem of violence against women, both within and outside the family, in El Salvadoran society and its implications for the physical and mental health of women and their children.

21. The Committee notes with concern the apparently chronic housing shortage and the fact that a large proportion of the population lives in precarious conditions and in housing that does not correspond to the content of the right to adequate housing recognized in article 11 of the Covenant.

22. The Committee notes that, despite a number of initiatives by the Government, effective access to education by children of school age is unsatisfactory in El Salvador. The Committee is particularly concerned at the fact that the objective of universal primary education has not yet been achieved. The high drop-out rate, high absenteeism, failure rates and the high rates of illiteracy as a result of exclusion from the education system are also of concern to the Committee. Although child labour is often necessary for the survival of the family, it is one of the factors hampering the implementation of articles 13 and 14 of the Covenant, and the Committee is disturbed by the apparent lack of action by the authorities to remedy the situation.

23. The Committee is concerned that it has received no information on any programmes introduced by the Government to guarantee the economic, social and cultural rights of ethnic minorities in El Salvador.

24. The Committee notes with concern the total lack of information on either legislation or practice in El Salvador concerning the implementation of cultural rights specified in article 15 of the Covenant.

25. The Committee notes that the technical cooperation project submitted by the Centre for Human Rights of the United Nations to the Government of El Salvador, which would enable the latter to receive the assistance necessary to implement the international human rights conventions to which El Salvador is a party and to develop greater familiarity with and respect for human rights among the members of its administration, has not yet been approved by the authorities.

E. Suggestions and recommendations

26. The Committee recommends that the Government address the problem of the inequitable distribution of wealth among the population in order to combat the poverty that characterizes the country.

27. The Committee recommends that every effort be made to ensure the prompt and full implementation of the 1992 Peace Agreements, including the provisions which relate to land redistribution and economic, social and cultural rights, respect for which is, in the Committee's opinion, a guarantee of social peace in El Salvador.

28. The Committee would like the next report submitted by El Salvador to contain specific information on the activities of the Office of the Procurator for the Defence of Human Rights and, in particular, on how much weight is carried by the recommendations it makes and on the action taken on complaints it files with regard to violations of economic, social and cultural rights.

29. The Committee urges that all necessary measures should be taken to eradicate discrimination against women in Salvadoran law and that programmes be set up to eliminate inequalities between men and women.

30. The Committee recommends that particular attention be paid to the problems of unemployment. It recommends that measures be taken to ensure that as few jobs as possible are sacrificed and that social protection and vocational rehabilitation programmes are guaranteed for persons who lose their jobs.

31. The Committee recommends that the State party make the necessary efforts to implement the Salvadoran legislation on minimum wages, safe and healthy working conditions, equal pay for equal work by men and women and arbitrary dismissals. To this end, the Committee stresses that sufficient resources must be allocated to labour inspection services to enable them to carry out the tasks entrusted to them.

32. The Committee recommends that El Salvador take the necessary measures to bring its legislation on trade-union freedom, collective bargaining and the right to strike into line with its international obligations.

33. The Committee recommends that the construction of low-income housing for the poorest sectors of Salvadoran society be intensified in urban and in rural areas and that a greater effort be made to provide sanitation and drinking water supplies for the entire population.

34. The Committee encourages the Government of El Salvador to pursue the reforms of the education system that it is carrying out, particularly in order to make primary education available to all and to reduce illiteracy. It is the Committee's opinion that measures should be taken by the authorities to enable working children to receive an adequate education.

35. The Committee would like the next report of the State party to contain information enabling it to evaluate the extent to which the members of indigenous communities enjoy all the economic, social and cultural rights provided for in the Covenant.

36. In view of the many gaps identified by the Committee in the written report and the additional information supplied by the Government and the delegation of El Salvador, the Committee reiterates its request to the Government to submit further information on articles 6 to 8 and 15 of the Covenant, as well as on any problems encountered in this regard. Such information should be provided to the Committee by 31 October 1996.

37. While welcoming the establishment of collaboration between the authorities and non-governmental organizations, the Committee notes that that collaboration is sporadic, and expresses the hope that it will become general, particularly with regard to drafting reports for the various international human rights treaty bodies, including this Committee, and publicizing the activities of the Procurator for the Defence of Human Rights.

38. The Committee expresses the hope that the State party will consider the possibility of ratifying the Additional Protocol the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador).

39. The Committee recommends that the proposal of the Centre for Human Rights concerning technical cooperation be given favourable consideration by the Salvadoran authorities and that such assistance be used to guarantee the enjoyment of economic, social and cultural rights by all.

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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

GUINEA

1. The Committee considered the state of implementation by Guinea of the economic, social and cultural rights contained in the Covenant at its 17th and 22nd meetings, held on 10 and 14 May 1996, and, at its 22nd meeting, held on 14 May 1996, adopted the following concluding observations:

A. Review of the implementation of the Covenant in relation to States Parties which have failed to report

2. At its seventh session, the Committee on Economic, Social and Cultural Rights decided to proceed to a consideration of the state of implementation of the International Covenant on Economic, Social and Cultural Rights in a number of States Parties which, despite many requests to do so, had not fulfilled their reporting obligations under articles 16 and 17 of the Covenant.

3. The purpose of the reporting system established by the Covenant is for the States Parties to report to the competent monitoring body, the Committee on Economic, Social and Cultural Rights, and through it to the Economic and Social Council, on the measures which have been adopted, the progress made, and the difficulties encountered in achieving the observance of the rights recognized in the Covenant. Non-performance by a State party of its reporting obligations, in addition to constituting a breach of the Covenant, creates a severe obstacle to the fulfilment of the Committee's functions. Nevertheless, the Committee has to perform its supervisory role in such cases and must do so on the basis of all reliable information available to it.

4. In situations in which a Government has not supplied the Committee with any information as to how it evaluates its own compliance with its obligations under the Covenant, the Committee has to base its observations on a variety of materials stemming from both intergovernmental and non-governmental sources. While the former provide mainly statistical information and apply important economic and social indicators, the information gathered from the relevant academic literature, from non-governmental organizations and from the press tends, by its very nature, to be more critical of the political, economic and social conditions in the countries concerned. Under normal circumstances, the constructive dialogue between a State Party reporting and the Committee will provide an opportunity for the Government to voice its own view, and to seek to refute such criticism and convince the Committee of the conformity of its policy with what is required by the Covenant. Non-submission of reports and non-appearance before the Committee deprives a Government of this possibility to set the record straight.

B. Introduction

5. Guinea has been a party to the Covenant since 24 April 1978. Since then, it has not submitted a single report. The Committee strongly urges the Government of Guinea to fulfil its reporting obligations as soon as possible, so that the Covenant on Economic, Social and Cultural Rights can be given full effect for the benefit of the people of Guinea. The Committee emphasizes that it considers the non-performance by Guinea of its reporting obligations not only a violation of the Covenant but also a grave impediment to an adequate application of the Covenant.

C. Factors and difficulties impeding the application of the Covenant

6. The Committee takes note of the fact that performance by Guinea of the obligations arising from the International Covenant on Economic, Social and Cultural Rights cannot be evaluated without taking into consideration the political, economic and social conditions in which the country finds itself at present.

7. The Committee finds that the progress made in the field of economic, social and cultural rights since the death of Sékou Touré and the assumption of power by Lansana Conté late in 1993 is inadequate. Although the transition from a one-party system to a multiparty one is under way, it is encountering some difficulties, and the Committee believes that the existence of a rule of law proclaimed by the 1990 Constitution remains essentially formal. According to information received by the Committee, social tensions persist and there is a climate of violence in Guinea. That climate was heightened during elections, popular uprisings and the recent army mutiny.

8. With regard to the economic and social situation, the Committee observes that the living conditions of Guineans are extremely difficult. According to a 1994 World Bank report, "Trends in developing economies", Guinea is among the poorest countries of Africa, despite its natural resources, such as agriculture, energy and mining. The average annual per capita income for 1992 was estimated at $510. Around one fourth of children die before the age of 5, and average life expectancy is 45 years. Only 37 per cent of school-age children have access to primary school, and 59 per cent of adults are

illiterate. According to one estimate, about 50 per cent of the population is living in poverty. Even though inflation has clearly diminished since 1990, prices remain high, inflation significant and per capita gross domestic product (GDP) inadequate. The Committee recalls that extreme poverty and social exclusion undermine human dignity. New alternative national and international policies should be adopted in those areas.

9. The Committee notes that the Government has not succeeded in halting the economic and social crisis described, although it has taken various measures with a view to adopting a new socio-economic development strategy. Thus, Guinea opted in favour of a free market economy, and in 1995 a programme for financial and economic reform was launched and an agreement with regard to the Enhanced Structural Adjustment Facility (EAF) was negotiated with the assistance of the World Bank and the International Monetary Fund. In this extent, the Committee emphasizes, however, that from the viewpoint of the Covenant and its interpretation by the Committee, any reform measures must be accompanied by the adoption of targeted programmes designed to protect the vulnerable groups and members of society.

D. Positive aspects

10. Concerning the rights proclaimed under article 8 of the Covenant, the Committee notes that, despite the major role played by the trade unions at the time of independence, trade-union freedom has since been stifled by the Government. None the less, the Committee welcomes the observations made by the Guinean Government to the International Labour Office in 1995, according to which several new trade unions had been formed in Guinea in conformity with the 1988 Labour Code.

11. As to article 12, the Committee notes that clear progress can be observed in the BCG, tetanus and polio vaccination rates.

E. Principal subjects of concern

12. The Committee notes with concern that only some of the rights proclaimed in the Covenant (for example, trade-union freedom and freedom of education, which is compulsory) are recognized in the 1990 Constitution, and that the provisions of the Covenant have not yet been incorporated into Guinean internal law. Furthermore, despite the embodiment of the principle of the independence of the judiciary in the Constitution, the Supreme Court and High Court of Justice seem to be under the control of the executive branch. That explains the difficulties encountered by Guineans in exercising their fundamental rights, since the judiciary does not play an effective role in guaranteeing those rights.

13. With regard to the rights contained in articles 6 and 7 of the Covenant, the Committee notes that there is a serious unemployment problem in Guinea. For example, unemployment among qualified young people has increased considerably in recent years. According to information received by the Committee, the low salaries are too low for the high cost of living, leaving many Guineans to supplement their incomes through additional jobs, as the majority of civil servants are forced to do, quite illegally.

14. The Committee also notes that unequal treatment of men and women is increasing, particularly in the informal sector of the economy. The Committee

therefore invites the Guinean Government to take steps on a national level to implement the principle of "equal pay for equal work", which derives from the principle of non-discrimination against women proclaimed in the Covenant, ILO Convention No. 111 and the 1990 Constitution.

15. Concerning working conditions, the Labour Code contains provisions on health and safety in the workplace. However, the Government has not yet formulated rules for their implementation. The Committee notes, for example, that according to the ILO Committee of Experts on the Application of Conventions and Recommendations, the Government has not yet adopted regulations on protection against atomic radiation.

16. With regard to article 8 of the Covenant, the Committee notes that the right to strike recognized by the 1990 Constitution and by ILO Conventions Nos. 87 and 98, which were ratified by Guinea, was apparently not being observed. The Government had intimidated, and even arrested, strikers on several occasions. The Committee referred, for example, to the complaint brought before the ILO Committee on Freedom of Association in late 1995 with regard to the strike organized by the free trade union of teachers and researchers of Guinea.

17. With respect to article 9, the Committee is concerned by the fact that, as late as 1995, no follow-up had yet been given to the draft social security code recently revised with the assistance of ILO. Social security protection is limited to public administration, State-controlled entities and large enterprises. As most of the country's workforce is concentrated in agriculture, the extent of social security coverage remains insignificant.

18. Concerning article 10 of the Covenant, the Committee notes that many children work on farms, in small businesses and as street vendors. According to the Committee, observance of the Covenant requires that the Government implement the Labour Code provisions prohibiting child labour under the age of 16.

19. The Committee remains concerned about the cases of domestic violence against women and invites the Government to take the appropriate action to remedy the situation.

20. With regard to article 11 of the Covenant, which provides that everyone has the right to an adequate standard of living, the Committee recalls with concern the poverty affecting approximately 50 per cent of the population. Malnutrition is still widespread throughout the country. The Committee is equally concerned by the lack of a minimum wage guaranteed by law. Concerning the right to adequate housing, the Committee observes that the measures taken by the Government do not always seem adequate to meet the needs of the Guinean people.

21. Regarding the right to health proclaimed in article 12, the Committee refers to the information provided by The Economist Intelligence Unit in 1994-1995, and notes that only 13 per cent of the population have access to medical services. Furthermore, only 55 per cent have access to drinking water, a situation that is made even worse by onchocercosis, or "river blindness". The Guinean life expectancy of 45 years is one of the lowest in Africa. The Committee notes that women and children are particularly affected by the precarious health situation.

22. Similarly, the Committee is especially concerned by the persistent practice of female genital mutilation, which has serious consequences on the physical, psychological and social health of women. Women are also among the first victims of the AIDS virus. Concerning children, the Committee notes that the mortality rate remains high.

23. Concerning articles 13 and 14 of the Covenant, the Committee recalls that illiteracy persists, and regrets that the Guinean Government has not given enough priority in the structural adjustment agreement to schooling and education. The Committee thinks it necessary to give children the right to schooling and training that will enable them to be a part of the socio-economic fabric, which is still in great need of suitably trained people to deal with underdevelopment. The Committee notes that discrimination against women is on the rise, which is apparent from the adult illiteracy rate, access to education and the school drop-out rate among girls. Furthermore, according to information received by the Committee, the school-attendance rate remains low, primary schools are overcrowded and the principle of free primary education guaranteed by law is not always applied. The Government is also apparently not willing to increase the education budget in order to deal with the serious shortage of teachers.

24. The Committee notes that the provisions under article 15 are not being implemented satisfactorily. Access to culture remains difficult, as demonstrated, for example, by the high price of publications. The Committee is equally concerned by the inadequacy of the steps taken by the Government to safeguard the cultural identity of the various ethnic groups in Guinea.

F. Suggestions and recommendations

25. The Committee reiterates its request that the Government of Guinea actively participate in a constructive dialogue with the Committee on how the obligations arising from the International Covenant on Economic, Social and Cultural Rights can be fulfilled in a more adequate manner. It calls to the Government's attention the fact that the Covenant creates a legal obligation for all States parties to submit periodic reports and that Guinea has been in breach of this obligation for many years.

26. The Committee recommends that the Government of Guinea avail itself of the advisory services of the Centre for Human Rights of the United Nations in order to enable it to submit as soon as possible a comprehensive report on the implementation of the Covenant in conformity with the Revised General Guidelines adopted by the Committee in 1990 (E/C.12/1991/1) and with particular emphasis on the issues raised and concerns expressed in the present concluding observations. The Committee also encourages the Centre for Human Rights to make available, through its programme of advisory services and technical assistance, expert assistance to States for the purpose of formulating policies on economic, social and cultural rights, and developing the implementation of coherent and comprehensive plans of action for the promotion and protection of human rights, as well as developing adequate means of evaluating and monitoring their realization.

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COMMITTEE ON ECONOMIC, SOCIAL
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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Preliminary concluding observations of the Committee
on Economic, Social and Cultural Rights

Dominican Republic

1. The Committee considered the second periodic report of the Dominican Republic on articles 1 to 15 of the Covenant (E/1990/6/Add.7) at its 29th and 30th meetings, held on 19 November 1996, and adopted, at its 50th meeting, held on 3 December 1996, the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation to the State party for its report and welcomes the appearance before it of the Permanent Representative of the Dominican Republic to the United Nations Office at Geneva. The Committee, however, notes with regret that the Government of the State party neither provided written replies to the Committee's list of issues (E/C.12/1995/LQ.7) made available to it in January 1996, nor sent an expert delegation to present its report as it had promised to do at the Committee's fourteenth session in May 1996, when requesting the postponement of the consideration of its report to the fifteenth session. Consequently, the Committee was obliged, in accordance with its method of work, to consider the second periodic report of the Dominican Republic without the benefit of a dialogue or the participation of an expert delegation. Nevertheless, the Committee notes the statement by the Permanent Representative of the Dominican Republic to the United Nations Office in Geneva that, although she was unable to take an active part in the dialogue with the Committee, she would communicate to her Government the principal additional

subjects of concern identified by the Committee in the course of its deliberations.

3. The Committee notes with dissatisfaction that the report submitted by the Government of the State party was, like the initial report, not prepared in accordance with its revised general guidelines (E/C.12/1991/1). It also notes that information contained therein is incomplete and of a purely legal nature, without any reference to the situation concerning the practical realization of the rights set forth in the Covenant, and that the suggestions and recommendations formulated by the Committee in its concluding observations and adopted at its eleventh session in November 1994 have not been addressed in the present report. It further notes, with regret, the lack of information of a general character which the State party was supposed to have provided in a "core document", which it has similarly failed to submit.

4. The Committee feels that the failure of the State party to respond to the list of issues and to send a delegation with competence to engage in a dialogue with it during this fifteenth session shows, on part of the State party, a consistent pattern of disregard for its obligations under the Covenant and an unwillingness to cooperate with the Committee.

5. In this connection, the Committee wishes to express its gratitude to the non-governmental organizations, both national ("Ciudad Alternativa" and COPADEBA) and international (Habitat International Coalition and International Women's Rights Action Watch) for the detailed and carefully documented information they have made available to it in relation to the Dominican Republic's report. In particular, the Committee draws the attention of the State party to the document "The Dominican Republic: An independent report submitted to the UN Committee on Economic, Social and Cultural Rights by the International Women's Rights Action Watch".

B. Positive aspects

6. The Committee notes with satisfaction, from the information available to it from other sources, that the Government has repealed Decree No. 358-91, the application of which had previously negatively affected the realization of the right to adequate housing, and that it has provided a solution to the cases of eviction pronounced under previous governments.

7. The Committee further appreciates the information that the Government has undertaken a thorough review of the public health sector and is preparing a reform of the Health Code.

8. The Committee further appreciates the attempts being made in the Chamber of Deputies to recognize domestic violence as a public health issue and thus to discourage gender violence as a matter of public policy.

C. Factors and difficulties impeding the implementation of the Covenant

9. The Committee notes that the slow evolution towards democracy and the rule of law in the Dominican Republic has inhibited the strengthening of democratic institutions, the modernization of the machinery of government and, consequently, the effective implementation of the Covenant.

10. The Committee also observes that economic difficulties characterized by, inter alia, an increasing number of impoverished people (60 to 65 per cent of the population live below the poverty line) and the landless rural population, the high level of unemployment, especially in the cities, and the persistent large-scale emigration of skilled and semi-skilled workers out of the country have had a constraining influence on the implementation of the Covenant in the country.

D. Principal subjects of concern

11. In relation to article 2 of the Covenant, the Committee observes that the Dominican Republic has done very little to promote public awareness of the rights set forth in the Covenant . The Committee has been informed that abuses by the police and other security services persist.

12. The Committee notes with regret that, although in law United Nations human rights treaties become part of Dominican law upon ratification, in practice the judiciary does not apply these international treaties.

13. The Committee is particularly concerned about the exploitation of Haitians, and their unacceptable living conditions in the *bateyes*. In this connection, it has no reason not to accept the veracity of various reports which emphasize the dire predicament of workers in the *bateyes*, especially women workers whose presence there is not administratively recognized and who therefore become vulnerable to extreme exploitation (their wages are 50 per cent lower than men's) and are often deprived of their rights and the most basic health and social services. Both men and women in the *bateyes*, as well as Haitian workers in other sectors of the economy, live in perpetual insecurity and they constitute the principal national group in the Dominican Republic who are subject to deportation in inhuman conditions, often at the whim of employers who take advantage of the State's inaction to exploit the vulnerability of this group.

14. The Committee takes note of information from various sources concerning the arbitrary confiscation of identity cards called "cedulas" and the illegal deportation of persons of Haitian origin born in the Dominican Republic during the 1993-1996 presidential campaign. This information stresses the insecurity prevailing with regard to nationality of Dominican citizens of Haitian origin. It thus appears necessary to adopt clear legislation on nationality, which would procure legal security to persons of Haitian origin born in the Dominican Republic and to their children, which would require the authorities to register births without discrimination, and which would allow Haitians to obtain Dominican nationality through naturalization under the same conditions as other foreigners.

15. The Committee is informed that Black Dominicans are often subject to the same arbitrary police and administrative discrimination as temporary Haitian workers. Groups representing Blacks in the Dominican Republic also claim that the State violates their cultural rights by allowing the police and some communities to suppress Afro-American or African-identified cultural practices. They also assert that discrimination of this kind is encouraged at the public schools and by employers in both the public and private sectors.

16. The Committee also notes with concern that, according to information received from various sources, there is no mechanism for lodging complaints against the arbitrariness or corruption of some judges and that there is no appellate procedure for challenging the discriminatory application of a law, an executive decree or a decree of the court.

17. The Committee notes with great concern that state expenditures on education and training, as a proportion of public expenditure are less than half their average in Latin America.

18. The Committee notes with concern that large-scale emigration of Dominicans has been going on for many years and has had and will continue to have a harmful effect on the Dominican economy, since a great part of the emigrants are skilled workers. The State party will have to take measures in the educational and socio-economic fields to stem the out-flow of skilled workers.

19. The Committee notes with alarm that, 30 years after the first industrial park was established in a free trade zone in the Dominican Republic, unacceptable working conditions and abuses against workers rights under articles 6, 7 and 8 of the Covenant continue.

20. The Committee notes with concern the inhuman and archaic prison system, whereby members of the family of an accused person, who has run away may be

imprisoned without trial in his place as a guarantee for the absentee accused until he hands himself over to the prison authorities; and whereby prisoners are supposed to buy their own meals at weekends, when the prison authorities stop providing any meals to the prisoners.

23. The Committee is concerned to note the persistent risk of "new tourism" in resort areas and the spread of AIDS, which is one of the country's greatest health problems.

24. The Committee is particularly concerned that the enjoyment by women of economic, social and cultural rights is undermined, inter alia by: a traditional and persistent male dominated society; the failure to ensure that single women heads of household benefit from the Agrarian reform or the Government's housing programme; the absence of any administrative mechanism that allows women to file complaints in cases of discrimination by the Dominican Agrarian Institute; the failure of the Government to protect women workers from discrimination or arbitrary dismissal related to pregnancy, including failure to discourage employers from the practice of pregnancy testing; and failure to develop and promote family planning services. The Committee is also concerned that, despite the very high rate of hospital births in the Dominican Republic, the rate of maternal mortality is unacceptably high; common law marriages are not legally recognized, although 47 per cent of all marriages are of this nature and, consequently, in cases of separation, abandonment or the death of the male breadwinner of the family a woman frequently loses everything and finds it difficult to acquire a cedula or collateral, without which she cannot obtain agricultural credit, housing or employment.

25. The Committee wishes to voice its serious concern about the continuing problem of violence against women and the insufficient attention paid to the problem by governmental institutions.

26. The Committee expresses its concern about the issue of limited access to safe drinking water for the rural population and those living in deprived urban areas, the higher incidence of infant mortality in certain socio-economic groups, the deplorable situation of persons with disabilities, the prevalence of endemic diseases, the problem of the inadequacy of social welfare and security, the persisting housing shortage and the inadequacy of access to health care.

27. The Committee also calls attention to the various concerns it has expressed to the State party since its fifth session (1990) in relation to the continuous violation of the right to adequate housing, and regrets the fact that it has received an entirely unsatisfactory and inadequate response from the State party

in this respect. The Committee reminds the State party of the significance it attaches to the right to adequate housing and thus to the adoption of measures by the State party to recognize, respect, protect and fulfil that right.

E. Suggestions and recommendations

26. The Committee invites the State party to confirm publicly its commitment to implement its binding human rights treaty obligations. It strongly calls upon the Government of the State party to honour its obligations under the International Covenant on Economic, Social and Cultural Rights, particularly through maintaining the proper direct and constructive dialogue with the Committee called for in the Covenant. The Committee proposes to adopt finally its concluding observations in relation to the State party at its sixteenth session. For that reason the Committee decides that these concluding observations will be considered "preliminary", pending further consideration of the report based on a dialogue with representatives of the State party at its sixteenth session.

27. In view of the consistent failure of the State party to meet its reporting obligations under the Covenant and to respond to successive requests for information made by the Committee over a number of years, the Committee urges the State party to attach the utmost importance to responding to the matters raised in the present concluding observations.

28. The Committee further recommends that the State Party provide it with written replies to its concluding observations adopted at its eleventh session (E/C.12/1994/15), in particular with regard to its request that the State party invite representatives of the Committee to visit the Dominican Republic; the written list of issues drawn up with respect to the third periodic report (E/C.12/1995/LQ.7); information contained in the document "The Dominican Republic: An independent report submitted to the UN Committee on Economic, Social and Cultural Rights by the International Women's Rights Action Watch".

29. The Committee requests the State Party to submit the information referred to in the preceding paragraph by 15 February 1997 in order to allow the Committee to consider that information at its sixteenth session, to be held from 28 April to 16 May 1997.

30. The Committee strongly recommends that the specific information requested above be presented to the Committee at its sixteenth session by an expert delegation.

31. The Committee encourages the State party to widely disseminate the Concluding observations adopted by the Committee following the consideration of the State party's second periodic report.